IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

WA.No. 2106 of 2007

(AGAINST THE JUDGEMENT IN WPC.12877/2007 Dated 12/04/2007

APPELLANT/ PETITIONER:

CHANDRASHEKHARAN, S/O.THUKRA SAFALYA,
KODINHILI HOUSE, MAJBAIL VILLAGE,
KASARAGOD TALUK & DISTRICT.

BY ADV. SRI.T.B. SHAJIMON

RESPONDENT/ RESPONDENT:

STATE OF KERALA, REPRESENTED BY
THE ASSISTANT EXCISE COMMISSIONER,
KASARAGOD, REPRESENTED BY PUBLIC PROSECUTOR,
ERNAKULAM.

BY SR. GOVERNMENT PLEADER SMT. R. MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 2106 OF 2007

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Dated this the 19th September, 2007

J U D G M E N T

H.L. Dattu, C.J.:

This appeal is directed against the orders passed by the learned single Judge in W.P.(C) 12877 of 2007 dated 12th April, 2007.

2. The petitioner /appellant claims that he is the owner of the vehicle in question. The vehicle is seized by the authority under the provisions of the Abkari Act (hereinafter referred to as 'Act'). An application has been filed by the petitioner/appellant before the authorities under the provisions of the Act for release of the vehicle. While considering the said application, the authorities under the Act had directed the petitioner to deposit a sum of Rs. 28,000/- for release of the vehicle, by its order dated 10.01.2007. The correctness or otherwise of the aforesaid order was the subject matter of the Writ Petition. The learned single Judge has disposed of the Writ Petition confirming the order of the authorities under the Act.

3. Learned counsel appearing for the petitioner/appellant would submit that the orders passed by the learned single Judge is contrary to what has been observed by a Division Bench of this Court in ***Pasadena vs. Sub Inspector of Police*** **(2000 (2) KLT 790).**

4. In our opinion, the said decision would not come to the aid of the contentions canvassed by the petitioner. In the aforesaid decision, this Court was pleased to observe that for release of the vehicle, furnishing of immovable property as security is not sufficient. Further, the Court was pleased to observe that for release of the vehicle, either the value of the vehicle should be deposited or sufficient bank guarantee should be furnished

by the owner.

5. In the instant case, the authorities under the Act have directed the petitioner/appellant to deposit a sum of Rs. 28,000/- for release of the vehicle. Now the petitioner requests this court to direct the authorities under the provisions of the Act to release the vehicle by accepting the bank guarantee that may be furnished . The provisions of the Act only says that a vehicle seized under the provisions of the Act can be released temporarily to its owner subject to the owner depositing an amount equivalent to the market value of the vehicle.

6. Keeping the provisions of the Act in view, the learned single Judge, in our opinion, has rightly rejected the Writ Petition, confirming the order of the authorities under the Act. Since the order passed by the learned single Judge is in consonance with the provisions of the Act, we do not find any error in the orders passed by the learned single Judge. Therefore, interference with the said order is not called for. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

7. Pending Interlocutory Applications are also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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